

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 9, 2001

D038143 In re Ross on Habeas Corpus

The requested petition for writ of habeas corpus is denied.

D033610 People v. Connelly

The judgment is affirmed. O'Rourke, J.; We Concur: Haller, Acting P.J., McDonald, J.

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and James McIntyre
Clerk: D E Moore

D034652 People v. Aguilar

Cause called on merits. John Lanahan, Esq. argued for appellant. Elisabeth Hartwig, Deputy Attorney General argued for respondent. Mr. Lanahan replied. Cause submitted.

Court recessed at 9:21 a.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice and The Honorable Associate Justices Gilbert Nares and James McIntyre

D036200 People v. Ray

Cause called on merits. Tracy L. Emblem, Esq. argued for appellant. Richard Armstrong, Deputy District Attorney argued for respondent. Ms. Emblem replied. Cause submitted.

Court recessed at 9:45 a.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Alex McDonald

D038141 Williams v. Superior Court/People

Matter called on merits. Jo Pastore, Deputy Public Defender argued for petitioner. Anthony Lovett, Deputy District Attorney General argued for real party in interest. Ms. Pastore replied. Matter submitted.

D036269 Zaidman v. Vencor International, et al.

Cause called on merits. Christie Gaumer, Esq. argued for appellant. Richard R. Leuthold, Esq. argued for respondent. Ms. Gaumer replied. Cause submitted.

Court recessed at 10:45 a.m. until 1:30 p.m.

D035554 People v. Dang

The judgment is affirmed. O'Rourke, J.; We Concur: Huffman, Acting P.J., Nares, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
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DIVISION ONE

October 9, 2001 (Continued)

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Alex McDonald

Clerk: D. E. Moore

D035421 People v. Wofford et al.

Cause called on merits. Jeanne Van Dehoff, Esq. argued for appellant, Jenkins. Barry Carlton, Deputy Attorney General argued for respondent. Ms. Van Dehoff replied. Cause submitted.

D034701) Hodges v. Reed

D036624) Hodges v. Reed

Cause called on merits. Jennifer Hegemier, Esq. argued for appellant. Paul E. Gavin, Esq. argued for respondent. Mr. Hegemier replied. Cause submitted.

D036108 People v. Smith

Cause called on merits. Lewis A. Wenzell, Esq. argued for appellant. Gary Brozio, Deputy Attorney General argued for respondent. Mr. Wenzell replied. Cause submitted.

Court recessed at 2:50 p.m. until Wednesday, October 10, 2001 at 9:00 a.m.

D036957 People v. Gray

The judgment (order of commitment) is affirmed. Huffman, J.; We Concur: Kremer, P.J., Nares, J.

D037956 Charizia v. Vincent et al.

Appellants have failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a). The appeal is dismissed.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 10, 2001

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices
Judith Haller and Alex McDonald
Clerk: D E Moore

D036787 Burch v. Allen

Cause called on merits. Brett Anderson, argued for appellant in pro per. No brief was filed on behalf of
respondent. Cause submitted.

D036608 Allen v. Smith et al.

Cause called on merits. John Williams, Esq. argued for respondent. James John Dalessio, Esq. was
present in oral argument for respondent, but did not argue. Stephen V. McCue, Esq. argued for appellant.
Cause submitted.

D038179 E. L. Yeager Construction Company, Inc. v. Franklin Reinforcing Steel, Inc.

Cause called on merits. John Boyd, Esq. argued for appellant. Patrick D. O'Keeffe, Esq. argued for
respondent. Mr. Boyd replied. Cause submitted.

Court recessed at 10:20 a.m. until 1:30 p.m.

Imperial County oral argument. Court convened at 10 a.m. in Imperial County. Present: The
Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Richard Huffman and
Gilbert Nares

D036649 People v. Barfield

Cause called on merits. Michael Sideman, Esq. argued for appellant. Arlene Sevidal, Deputy Attorney
General argued for respondent. Mr. Sideman replied. Cause submitted.

D034929 People v. Ibarra

Cause called on merits. Joseph Tavano, Esq. argued for appellant. Holly Hoffman, Deputy Attorney
General argued for respondent. Mr. Tavano replied. Cause submitted.

D036600 Callexico Hospital Management Group, LLC v. State of California et al.

Cause called on merits. Dan Lawton, Esq. argued for appellant. David F. Taglienti, Deputy Attorney
General argued for respondent. Mr. Lawton replied. Cause submitted.

**D037321 California Teachers Association et al. v. Governing Board of El Centro School
District et al.**

Cause called on merits. Charles Gustafson, Esq. argued for appellant. Michael Dolida, Esq. argued for
respondent. Mr. Gustafson replied. Cause submitted.

Court adjourned at 11:40 a.m.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 10, 2001 (Continued)

D036285 People v. Salgado

The judgment is affirmed. Nares, Acting P.J.; We Concur: McDonald, J., McIntyre, J.

D036891 People v. Jaime

Judgment affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

D036642 Ilko v. United Services Automobile Association Insurance

The judgment is reversed. The matter is remanded to the trial court with directions to enter judgment in favor of USAA and against Ilko.

D037725 In re Michael W., a Juvenile

The judgment terminating Mother's and Father's parental rights is affirmed. Haller, J.;
We Concur: Huffman, Acting P.J., McIntyre, J.

D035850 People v. Little

The judgment is affirmed. Huffman, Acting P.J.; We Concur: Haller, J., McDonald, J.

D037780 People v. Gulley

Judgment affirmed. Haller, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D036799 Minka v. Pacificare of California et al.

The judgment is reversed. The matter is remanded and the court is directed to rehear defendants' motions for summary judgment or adjudication on the substantive grounds raised in the motions. The parties are to bear their own costs on appeal. Haller, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.

D038774 In re Blackwell on Habeas Corpus

The petition is denied.

D038772 In re Hampton on Habeas Corpus

The petition is denied.

D038831 Almeraz v. Superior Court of San Diego County/People

The petition is denied.

D037440 People v. Haque

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a).
The appeal is dismissed.

D038261 Javier A. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The petition is denied. Benke, Acting P.J.; We Concur: Haller, J., O'Rourke, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 10, 2001 (Continued)

D037486 Ahumada v. Garcia Food Store

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a). The appeal is dismissed.

D037836 Newton v. North County Times

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)).

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Alex McDonald

Clerk: D E Moore

D036905 People v. Robinson

Cause called on merits. Susan P. Clemens, Esq. argued for appellant. Adriana Rincon, certified law student of Attorney General's office argued for respondent. Ms. Clemens replied for appellant. Cause submitted.

D038187 Mission Crane Services, Inc. v. Danford, et al.

Cause called on merits. Maurice Wainer, Esq. argued for appellant. Brett Johnson Williamson, Esq. argued for respondent. Mr. Wainer replied. Cause submitted.

D036677 Insurance Company of the West v. Goodell, et al.

Cause called on merits. Peter Abrahams, Esq. argued for appellant. Donald A. English, Esq. argued for respondent. Mr. Abrahams replied. Cause submitted.

D036383 Caliph, Inc., et al. v. Fisher/H. Paul Kondrick

Cause called on merits. H. Paul Kondrick, Esq. argued for appellant. Richard C. Norton, Esq. was present at counsel table, but did not argue. Wayne Hughes, Esq. argued for respondent, Fisher. Mr. Kondrick replied. Cause submitted.

D035161 San Diego Unified Port District v. SGPA Architecture & Planning, et al.

Cause called on merits. John D. Marino, Esq. argued for appellant, SGPA Architecture & Planning. Jason R. Thornton, Esq. argued for appellant, Douglas Barnhart. V. Blair Shahbazian, Esq. argued for respondent. Mr. Marino replied. Mr. Garnhart replied.. Cause submitted.

Court recessed at 3:30 p.m. until Thursday, October 11, 2001 at 9 a.m.

D035971 In Conservatorship of Waters

Judgment affirmed. Benke, Acting P.J.; We Concur: Huffman, J., Nares, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 11, 2001

D038852 People v. Williams

The appeal is dismissed pursuant to California Rules of Court, rule 31(d).

D035944 Warner v. Shield Security System

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)). Each party to bear own costs on appeal.

Court convened at 9:00 a.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices
James McIntyre and Terry O'Rourke
Clerk: D. E. Moore

D038039 In re Amayrani M., a Juvenile

Cause called on merits. Rick Freitas, Esq. argued for appellant. Patrice Plattner Granger, Deputy County Counsel argued for respondent. Alice C. Shotton, Esq. argued for the minor. Cause submitted.

D036939 Roy v. San Diego Auto Recovery, Inc., et al.

Cause called on merits. No appearance by Romi Roy, Ph.D. Thomas J. Lincoln, Esq. was present in oral argument for respondent, and submitted on the briefs. Cause submitted.

D035167 People v. Rodriguez

Cause called on merits. Kristine Marie Watkins, Esq. argued for appellant. Vince Rabago, Deputy Attorney General argued for respondent. Ms. Watkins replied. Cause submitted.

D036573 People v. Borsellino

Cause called on merits. Howard C. Cohen, Esq. argued for appellant. Vince Rabago, Deputy Attorney General argued for respondent. Mr. Cohen replied. Cause submitted.

D038201 Kent v. The Minnesota Mutual Life Insurance Company, et al.

Cause called on merits. John K. Saur, Esq. argued for appellant. John Louis Viola, Esq. argued for respondent, The Minnesota Mutual Life Insurance Company. Paul D. Hesse, Esq. argued for respondent, Rucachko. Mr. Saur replied. Cause submitted.

Court recessed at 10:00 a.m. until 1:30 p.m.

D036200 People v. Ray

The sentence imposed is vacated and the case remanded for a new sentencing hearing consistent with the views expressed in this opinion. Huffman, Acting P.J.; We Concur: Nares, J., McIntyre, J.

D037307 People v. Johnson

The judgment is affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 11, 2001 (Continued)

D038842 In re Polselli on Habeas Corpus

The petition is denied.

D038123 Juan S. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The request for publication for the opinion is denied.

Court reconvened at 1:30 p.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Alex McDonald

Clerk: D. E. Moore

D036035 Galin v. Gordon, Haskett & Company et al.

Cause called on merits. Mark Edwin Merin, Esq. argued for appellant. Mark Bennett, Esq. argued for respondent. Mr. Merin replied. Cause submitted.

D035728 California Capital Insurance Company v. State Farm Fire and Casualty Company

Cause called on merits. Timothy D. Lucas, Esq. argued for appellant. Curtis Lloyd Metzgar, Esq. argued for appellant. Mr. Lucas replied. Cause submitted.

Court recessed at 2:20 p.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Alex McDonald

D035394 Sarasota, Inc. v. Laughlin

Cause called on merits. Richard A. Higgins, Esq. argued for appellant. Roger McCaffrey, Esq. argued for respondent. Mr. Higgins replied. Cause submitted.

Court recessed at 2:50 p.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Judith Haller

D036059 People v. Sawyer

D038667 In re Sawyer on Habeas Corpus

Causes called on merits. Gary E. Nelson, Esq. argued for appellant. Charles Legrand, Deputy Attorney General argued for respondent. Mr. Nelson replied. Cause submitted as to appeal ONLY, D036059.

D036647 Citizens for Safe Drinking Water v. San Diego City Council

Cause called on merits. Kyle Nordrehaug, Esq. argued for appellant. James M. Chapin, Deputy City Attorney argued for respondent. Mr. Nordrehaug replied. Cause submitted.

Court recessed at 3:35 p.m. until Friday, October 12, 2001 at 9 a.m.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 11, 2001 (Continued)

D038844 County of Orange v. Superior Court of Orange County/Garry et al.

The petition is denied without prejudice to filing another writ following the outcome of the renewed change of venue motion to be heard on October 24, 2001. The request for judicial notice of exhibits numbered 1 through 4 is granted. The request for judicial notice of the unidentified judicial profile of Judge Velasquez (exhibit 5) is denied.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 12, 2001

D038787 In re Marriage of Nadel

The appeal is dismissed.

Court convened at 9:00 a.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices
Richard Huffman and James McIntyre
Clerk: D E Moore

D036533 People v. Winters

Cause called on merits. Richard Sachs, Deputy District Attorney argued for appellant. Daniel Koryn, Esq. argued for respondent. Cause submitted.

D034424 People v. Delpy

Cause called on merits. Jerome P. Wallingford, Esq. argued for appellant. Frederick R. Millar, Jr., Deputy Attorney General argued for respondent. Mr. Wallingford replied. Cause submitted.

Court recessed at 10 a.m. to change panel members. New panel members: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices James McIntyre and Terry O'Rourke

D036117 Cleveland v. Harder

Cause called on merits. Clark Hudson, Esq. argued for respondent. Nancy Sussman, Esq. argued for appellant. Cause submitted.

D037197 Harney v. Marlin

Cause called on merits. Robert James McDonnell, Esq. argued for appellant. Richard A. Heller, Esq. argued for respondent. Mr. McDonnell replied. Cause submitted.

D036705 San Diego County Deputy Sheriffs Association, et al. v. San Diego County Civil Service Commission, et al.

Cause called on merits. Everett L. Bobbitt, Esq. argued for appellant. Sanford A. Toyen, Esq. was present in oral argument with Mr. Bobbitt but did not argue. William Songer, Deputy County Counsel argued for respondent. Mr. Bobbitt replied. Cause submitted.

D036983 Fred Demeo, Inc. v. Fryer

Cause called on merits. Michael H. Fish, Esq. argued for appellant. John L. Smaha, Esq. argued for respondent. Mr. Fish replied. Cause submitted.

Court recessed at 11:20 a.m. until 1:30 p.m.

D031198 People v. Williams

The petition for rehearing is denied.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 12, 2001 (Continued)

An order denying a petition for writ of habeas corpus is not appealable. The appeal is dismissed.

D038863 People v. Jones

It appears that the appeal is premature in that defendant has not been tried, found guilty and sentenced. The appeal is denied without prejudice to refile after sentencing should defendant be found guilty.

D037552 Legrand et al. v. Sycamore Commercial Development Group et al.

We affirm the grant of an easement by prescription. We remand to the trial court to determine the scope of that easement in terms of its location and the frequency of parking and deliveries. Each party is to bear its own costs. O'Rourke, J.; We Concur: Huffman, Acting P.J., McIntyre, J.

D036269 Zaidman v. Vencor International Inc., et al.

The judgment is reversed insofar as it concerns an award for reimbursement of medical expenses, and the matter is remanded to the trial court for further proceedings. The judgment is affirmed in all other respects. The parties are to bear their own costs on appeal. Nares, J.; We Concur: Huffman, Acting P.J., McDonald, J.

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Alex McDonald
Clerk: D E Moore

D035518 Smith v. Minnesota Mining and Manufacturing Company

Cause called on merits. Joseph Peter Mascovich, Esq. argued for respondent. Linda Jacqueline DeVore, Esq. argued for appellant. Cause submitted.

Court recessed at 1:55 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Terry O'Rourke

D036029 Scowden v. Jaeschke, Inc., et al.

Cause called on merits. Christopher P. Barry, Esq. argued for appellant. Natalie A. Kouyoumdjian, Esq. argued for respondent. Mr. Barry replied. Cause submitted.

D034834 McCampbell et al. v. Ralphs Grocery Company et al.

Cause called on merits. Don Howarth, Esq. argued for appellant. Gregory P. Stone, Esq. argued for respondent. Mr. Howarth replied. Cause submitted.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 12, 2001 (Continued)

D033648 Sure Safe Industries, Inc., et al. v. McGrath Rentcorp et al.

Cause called on merits. Christopher Ream, Esq. argued for appellant/cross-respondent, McGrath Rentcorp. Frank Polek, Esq. argued for appellant/cross-respondent, William Scotsman, Inc. James C. Stevens, Esq. argued for respondent/cross-appellant. Mr. Ream replied. Mr. Polek replied. Cause submitted.

Court recessed at 3:27 a.m. until Monday, October 15, 2001 at 9 a.m.